

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nicholas Bongiovanni	Team: Squad #2	CCRB Case #: 201402818	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/22/2014 8:30 PM	Location of Incident: In front of 32-10 100th Street	Precinct: 115	18 Mo. SOL 9/22/2015	EO SOL 9/22/2015	
Date/Time CV Reported Tue, 03/25/2014 9:17 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 03/25/2014 9:17 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Orlando Sanchez	13382	935691	PBQN SU
2. LT Christophe Devaney	00000	901448	PBQN SU
3. POM William Seidman	01232	946649	PBQN SU

Officer(s)	Allegation	Investigator Recommendation
A.LT Christophe Devaney	Abuse: Lt. Christopher Devaney refused to provide his name and/or shield number to § 87(2)(b)	
B.POM Orlando Sanchez	Abuse: PO Orlando Sanchez refused to provide his name and/or shield number to § 87(2)(b)	
C.LT Christophe Devaney	Abuse: Lt. Christopher Devaney questioned § 87(2)(b)	
D.POM William Seidman	Abuse: PO William Seidman refused to provide his name and/or shield number to § 87(2)(b)	
E.LT Christophe Devaney	Discourtesy: Lt. Christopher Devaney spoke rudely to § 87(2)(b)	
F.LT Christophe Devaney	Force: Lt. Christopher Devaney used physical force against § 87(2)(b)	
G.LT Christophe Devaney	Force: Lt. Christopher Devaney used physical force against § 87(2)(b)	
H.POM Orlando Sanchez	Abuse: PO Orlando Sanchez damaged § 87(2)(b)'s property.	

Case Summary

On March 25, 2014, § 87(2)(b) called the CCRB and reported the following incident via the call processing system, on behalf of § 87(2)(b) and § 87(2)(b) (encl. 3A-3C). § 87(2)(b) did not witness the incident. On March 22, 2014, § 87(2)(b) was arrested in front of 32-100th Street in Queens (complaint encl. 3A-3C, CCRB statements encl. 8A-9F, 11A-11B).

On March 22, 2014, at approximately 8:30 p.m., Lt. Christopher Devaney, PO William Seidman and PO Orlando Sanchez of Patrol Borough Queens North Anti-Crime, approached § 87(2)(b) and § 87(2)(b) in front of 32-10 100th Street in Queens. Lt. Devaney, PO Seidman and PO Sanchez were each dressed in plainclothes and arrived in an unmarked police car. § 87(2)(b) was sitting in the driver's seat of a navy blue 1994 Ford Econoline. § 87(2)(b) and § 87(2)(b) stood outside the van, and spoke with § 87(2)(b) regarding the van's engine noise. At no point during the incident was the van in motion. § 87(2)(b) provided video footage of the incident that was recorded on a building security camera (The CD of the video footage is located in the "Extra Documents" folder with the video transcription encl. 10A).

Upon being approached by the officers, § 87(2)(b) asked Lt. Devaney and PO Sanchez for their names and badge numbers which they allegedly did not provide (**Allegations A and B**). PO Sanchez then stood with § 87(2)(b) and § 87(2)(b) on the sidewalk while Lt. Devaney and PO Seidman remained by the van. Lt. Devaney asked § 87(2)(b) for his license, and he and PO Seidman allegedly "checked" his registration, inspection and license plate by using a device that looked like a "thick cellphone" (**Allegation C**). § 87(2)(b) allegedly did not provide his license but provided his name. Lt. Devaney then began walking back to the police car. § 87(2)(b) followed the officers from behind and allegedly requested all of their names and badge numbers (**Allegation D**). Lt. Devaney allegedly told § 87(2)(b) "We don't gotta give you shit" (**Allegation E**). § 87(2)(b) allegedly ran toward the officers from behind and reached his hands out towards Lt. Devaney's shoulder or back while telling him, "I'm gonna fuck you up." Lt. Devaney then allegedly pushed § 87(2)(b) in his chest with two hands and then grabbed his shirt collar to bring him to the ground (**Allegation F**). PO Sanchez then handcuffed and arrested § 87(2)(b). Lt. Devaney then approached § 87(2)(b) and pushed him three times in his chest and once in the back (**Allegation G**). § 87(2)(b) then walked away. § 87(2)(b) was then transported to the 115th Precinct stationhouse where he believed an officer reset his cellphone because his call logs, pictures and contacts were all deleted (**Allegation H**).

Mediation, Civil and Criminal Histories

§ 87(2)(b) was arrested as a result of this incident and therefore the complaint was ineligible for mediation. The Comptroller's Office confirmed on August 14, 2014, more than 90 days after the incident, that a notice of claim had not been filed (encl. 34K). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) or § 87(2)(b) (encl. 2A-2D).

§ 87(2)(g)

Allegation B- Abuse of Authority: PO Orlando Sanchez refused to provide his name and/or shield number to § 87(2)(b)

§ 87(2)(g)

PO Sanchez denied that any officer refused to provide his name or shield number during the incident. He stated that, when responding to a location, every time he exits his vehicle, he displays his badge and that he did so during this incident.

NYPD Patrol Guide Section 203-09 states that an officer must “clearly state [their] rank, name, shield number and command, or otherwise provide them, to anyone who requests [you] to do so” (encl. i).

§ 87(2)(g)

Allegation C- Abuse of Authority: Lt. Christopher Devaney questioned § 87(2)(b)

§ 87(2)(b) alleged that Lt. Devaney approached § 87(2)(b) asked for his license, registration, vehicle inspection, and “checked” those documents and his license plates using a device that looked like a “thick cellphone.” The van was not in motion during the incident.

Officer statements indicate that Lt. Devaney requested § 87(2)(b)'s information after observing mismatched out-of-state license plate stickers on the vehicle and seeing § 87(2)(b) shining a light into the van in an area where vehicle break-ins frequently occur. Further, Lt. Devaney alleged that the van's tires were on the curb at the time they approached the vehicle.

To request information from an individual, an officer must have an objective credible reason. People v. Hollman, 79 N.Y.2d 181 (1992) (encl. ii-ix).

§ 87(2)(g)

Allegation E- Discourtesy: Lt. Christopher Devaney spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that when he asked Lt. Devaney, PO Seidman and PO Sanchez for their names and shield numbers, Lt. Devaney told him, “We don’t gotta give you shit.” Neither § 87(2)(b) nor § 87(2)(b) was able to be contacted to provide statements regarding the incident.

Lt. Devaney denied telling § 87(2)(b) “We don’t gotta give you shit,” or using the word “Shit” in any comment. Neither PO Seidman nor PO Sanchez heard Lt. Devaney telling § 87(2)(b) “We don’t gotta give you shit,” or use the word “Shit” in any comment.

§ 87(2)(g)

Allegation F- Force: Lt. Christopher Devaney used physical force against § 87(2)(b)

§ 87(2)(b) stated that after he walked behind Lt. Devaney and repeated his request for the officers’ names and shield numbers, Lt. Devaney turned around, pushed him in his chest, grabbed him by his shirt collar and brought him to the ground. § 87(2)(b) stated that his hands were at his sides and at no point did he reach for or initiate any physical contact with any officer. § 87(2)(b) denied yelling, cursing, or running behind the officers. Neither § 87(2)(b) nor § 87(2)(b) was able to be contacted to provide statements regarding the incident.

Lt. Devaney stated that he heard PO Sanchez issuing § 87(2)(b) multiple verbal commands to stay where he was and not approach the officers. Lt. Devaney stated that when he was returning to the police car, he heard “fast footsteps” approaching him from behind. Lt. Devaney stated that he then turned around and observed § 87(2)(b) immediately behind him, within arm’s reach, while telling him, “I’m gonna fuck you up.” Lt. Devaney stated that he did not have time to issue § 87(2)(b) any verbal commands. Lt. Devaney stated that he then grabbed § 87(2)(b)s shoulders and used his foot to sweep under § 87(2)(b)s feet, taking him to the ground. Lt. Devaney denied pushing § 87(2)(b) or grabbing his shirt collar.

PO Seidman stated that § 87(2)(b) was approaching Lt. Devaney from behind and yelling comments but he did not recall what he said. PO Seidman was on the opposite side of the police car at this time. According to PO Seidman, Lt. Devaney told § 87(2)(b) at least three times to get back. PO Seidman stated that § 87(2)(b) did not comply and held his hands out in front of him. PO Seidman observed § 87(2)(b) get within one foot away from Lt. Devaney. PO Seidman stated that he then walked around the police vehicle to get to the same side where Lt. Devaney and § 87(2)(b) were. PO Seidman stated that by the time he walked around the police car, § 87(2)(b) was already on the ground and did not see how he was taken to the ground. PO Seidman did not see Lt. Devaney push § 87(2)(b) or grab him by his shirt collar.

PO Sanchez stated that when Lt. Devaney, PO Seidman and he began walking back to the police car, § 87(2)(b) approached the officers from behind and believed that it was to Lt. Devaney he said, “I’m gonna fuck you up.” PO Sanchez stated that he turned around at this point and observed § 87(2)(b) behind Lt. Devaney and reaching for his shoulder or back. PO Sanchez then observed Lt. Devaney grab § 87(2)(b) but did not recall where. PO Sanchez stated that he then grabbed § 87(2)(b) around his upper body. PO Sanchez observed Lt. Devaney sweep his foot under § 87(2)(b)’s feet, taking him to the ground. PO Sanchez did not push § 87(2)(b) or observe any other officer do so. PO Sanchez did not grab § 87(2)(b) by his shirt collar or observe any officer do so.

Lt. Devaney, PO Seidman and PO Sanchez all stated that § 87(2)(b) was hostile when he approached Lt. Devaney by threatening him, yelling or holding his hands out in front of him. § 87(2)(b) denied doing either. § 87(2)(b) stated that he only walked behind the officers with his hands at his sides when he requested for the officers’ names and shield numbers which is neither threatening nor an offense in which he could be arrested for. It is unclear whether Lt. Devaney’s force used against § 87(2)(b) was necessary or arrest warranted. Also, since the arrest of § 87(2)(b) took place off camera, the video footage did not show the alleged force.

§ 87(2)(g)

Allegation G- Force: Lt. Christopher Devaney used physical force against § 87(2)(b)

§ 87(2)(b) stated that § 87(2)(b) stood about two feet away from Lt. Devaney when Lt. Devaney pushed him in his chest two times. § 87(2)(b) stated that § 87(2)(b) responded to each push by taking steps backward and putting his hands up. § 87(2)(b) stated that § 87(2)(b) then turned around and began walking away from Lt. Devaney, and Lt. Devaney pushed § 87(2)(b) once from behind. § 87(2)(b) stated that § 87(2)(b) did not say or do anything prior to being pushed. § 87(2)(b) did not recall Lt. Devaney telling § 87(2)(b) anything prior to pushing him. Neither § 87(2)(b) nor § 87(2)(b) was able to be contacted to provide statements regarding the incident.

The video footage provided by § 87(2)(b) showed that § 87(2)(b) initially followed Lt. Devaney, PO Seidman and PO Sanchez as they approached the police car with § 87(2)(b) § 87(2)(b) then stopped and remained on the sidewalk. Lt. Devaney then approached § 87(2)(b) and pushed him three consecutive times in his chest. § 87(2)(b) took about two steps backward after each push. Lt. Devaney continued to approach § 87(2)(b) after each push. Following the third push to the chest, § 87(2)(b) turned away from Lt. Devaney and began walking away. Lt. Devaney continued to approach § 87(2)(b) from behind and pushed him once in the back.

Lt. Devaney stated that § 87(2)(b) yelled at the officers when arresting § 87(2)(b) told them that they should not be arresting him, and that they all should be shot in the head. Lt. Devaney stated that § 87(2)(b) yelled at the officers that he is glad when officers are shot in the head. Lt. Devaney stated that § 87(2)(b) stood about twenty feet away when he yelled this at the officers. Lt. Devaney then began approaching § 87(2)(b) and told him to go home or he will be joining § 87(2)(b) in jail. Lt. Devaney stated that § 87(2)(b) then began approaching him. Lt. Devaney told § 87(2)(b) to go home again. Lt. Devaney stated that § 87(2)(b) took one more step toward Lt. Devaney and yelled “Fuck you” and similar comments about officers being shot in the head. Lt. Devaney stated that he then pushed § 87(2)(b) in the chest about three consecutive times. Lt. Devaney stated that § 87(2)(b) responded to each push by pressing his body weight

against his hands. Lt. Devaney initially denied pushing § 87(2)(b) from behind. After reviewing the video footage provided by § 87(2)(b) Lt. Devaney acknowledged that § 87(2)(b) turned away from him and he pushed § 87(2)(b) once from behind.

PO Seidman observed § 87(2)(b) approaching Lt. Devaney and yelling. PO Seidman did not recall what § 87(2)(b) yelled. PO Seidman observed Lt. Devaney approaching § 87(2)(b) and telling him “numerous” times to get back. § 87(2)(b) did not comply and continued approaching Lt. Devaney. PO Seidman stated that Lt. Devaney told § 87(2)(b) to get back once more, and § 87(2)(b) turned around and ran away. PO Seidman did not observe Lt. Devaney push § 87(2)(b). PO Seidman was shown the video footage provided by § 87(2)(b) and acknowledged that Lt. Devaney did in fact push § 87(2)(b) including once from behind.

PO Sanchez stated that once he handcuffed § 87(2)(b) he escorted him into the police car and then immediately entered the police car himself. PO Sanchez stated that once he entered the police car, Lt. Devaney and PO Seidman also entered the police car. PO Sanchez did not see any officer making any physical contact with anyone else other than § 87(2)(b). PO Sanchez did not see Lt. Devaney push § 87(2)(b). PO Sanchez stated that no other individual physically interfered with § 87(2)(b)'s arrest. PO Sanchez did not mention § 87(2)(b) yelling anything.

According to NYPD Patrol Guide Procedure 203-11, an officer must use the minimum necessary force to overcome resistance (encl. x-xi).

§ 87(2)(g)
[REDACTED]

[REDACTED]

Allegation H- Abuse of Authority: PO Orlando Sanchez damaged § 87(2)(b)'s property.

§ 87(2)(b) stated that PO Sanchez took possession of his cellphone once at the stationhouse after searching his pocket. § 87(2)(b) alleged that his cellphone was reset because he realized upon having his cellphone returned, his photos, contacts and call logs were deleted. § 87(2)(b) did not observe how that happened.

Lt. Devaney, PO Sanchez and PO Seidman each denied deleting any content from § 87(2)(b)'s cellphone or observe any other officer doing so. PO Sanchez stated that he recovered § 87(2)(b)'s cellphone from his pocket in a search incident to his arrest at the stationhouse. PO Sanchez stated that he did not do anything else with the cellphone besides power it off and voucher it.

§ 87(2)(g)
[REDACTED]

Pod: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date